

1 WORKERS' COMPENSATION APPEALS BOARD

2 STATE OF CALIFORNIA

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4 JONATHAN SHOCKLEY,

5 Applicant,

6 vs.

No. ADJ12031731(OAK)

7 BIOTELEMETRY, INC. DBA

8 CARDIONET, LLC; CHUBB

9 INDEMNITY INSURANCE COMPANY,

10 Defendants.

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14 DEPOSITION OF JONATHAN SHOCKLEY

15 Oakland, California

16 Thursday, October 10, 2019

17 Volume I

18

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21 Reported by:

22 CLAUDIA A. BETTUCCHI

23 CSR No. 12214

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25 PAGES 1 - 61

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15 Deposition of JONATHAN SHOCKLEY taken on

16 behalf of Defendants at 333 Hegenberger Road, Suite 504,

17 Oakland, California, beginning at 10:14 a.m. and ending

18 at 11:54 a.m. on Thursday, October 10, 2019, before

19 CLAUDIA A. BETTUCCHI, Certified Shorthand Reporter No.

20 12214.

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10:14 a.m.

4 JONATHAN SHOCKLEY

5 having been administered an oath, was examined and  
6 testified as follows:

## EXAMINATION

9 BY MR. GOINES:

10 Q Good morning, Mr. Shockley.

11 A Good morning.

12 Q How are you today?

13 A I am good.

14 Q Good. Well, thank you for being here. As you  
15 know, this is your deposition, and I represent the  
16 employer and the insurer in relation to your workers'  
17 compensation claim.

18 So, to begin, have you ever had a deposition  
19 taken before?

20 A No.

21 Q No? I'm just going to go over some normal  
22 ground rules.

23 So although we're at an informal setting,  
24 which is your attorney's office, your testimony is under  
25 oath, meaning it has the same effect as if you were in

1 court. Does that make sense?

2 A Yes.

3 Q Terrific.

Throughout the depo I might ask for a date or a time or a measurement. I'm entitled to your best estimate, but I don't want a guess.

Very brief example: If I ask you how big this desk is, you can estimate because it's in front of you. If I asked how big the desk in my office is, you'd have to guess because you've never seen it.

11 A Right.

12 Q So I'm entitled to your best estimate, but  
13 please do not guess. Does that make sense?

14 A Yes.

15 Q Terrific.

16 If you don't understand a question, just ask  
17 me to rephrase and I can do that. If you need to take a  
18 break at any time, we can do that as well. Just let me  
19 know. Please avoid shrugging your shoulders. Just give  
20 me a verbal yes, no or I don't know.

21 Does that make sense?

22 A Yes.

23 Q Perfect.

24 You'll get a chance to look at your  
25 transcript, which is everything in typed-out form. You

1 can make any changes to that. However, if do you make  
2 any changes, I can bring that to the attention of a  
3 judge, if we proceeded to trial. Does that make sense?

4 A Yes.

5 Q Terrific.

6 Roughly, how long did you prepare with your  
7 attorney today before the deposition?

8 A What time is it?

9 Q It's about 10:15 right now.

10 A 40 minutes?

11 MR. KWELLER: So you got here at about 9:15.

12 THE WITNESS: Roughly, yeah.

13 MR. KWELLER: And we started preparing  
14 immediately.

15 THE WITNESS: Yes.

16 MR. KWELLER: And we prepared until all the  
17 parties came into the deposition and commenced with  
18 deposition testimony.

19 THE WITNESS: Yes.

20 MR. GOINES: 60 minutes?

21 MR. KWELLER: Yes.

22 MR. GOINES: 60 minutes.

23 Q Lastly, are you aware that it is a felony  
24 under the Insurance Code to make a misstatement in order  
25 to obtain workers' compensation benefits?

1 A Yes.

2 Q Terrific.

3 Any questions before we start?

4 A No.

5 Q Good. If you have any, just let me know.

6 Please state your full name for the record.

7 A Jonathan David Shockley.

8 Q Have you ever gone by any other names,

9 Mr. Shockley?

10 A No.

11 Q And what's your date of birth?

12 A September 27th, 1978.

13 Q And did you drive to the deposition today?

14 A No.

15 Q Do you have any difficulties driving?

16 A I don't know how to drive.

17 Q Do you have a driver's license?

18 A No.

19 Q Okay. And your current address?

20 A 1000 Sutter Street, Room 123.

21 Q That's in San Francisco?

22 A Yes.

23 Q And apartment or a home?

24 A Apartment.

25 Q Do you have any --

1 A Rather, room.  
2 Q A room within an apartment?  
3 A A hotel, residence.  
4 Q Understood.  
5 Q Do you have any stairs leading to your hotel  
6 room?  
7 A Yes.  
8 Q Any difficulty going up or down stairs?  
9 A No.  
10 Q Are you currently married?  
11 A No.  
12 Q Ever been married?  
13 A No.  
14 Q Any children?  
15 A No.  
16 Q And were you ever in the military,  
17 Mr. Shockley?  
18 A No.  
19 Q Okay. And where were you born?  
20 A Laredo, Texas.  
21 Q And when did you move to California?  
22 A 1999.  
23 Q 1999? And you moved to San Francisco?  
24 A Yes.  
25 Q Since 1999 have you lived continuously in

1 San Francisco?

2 A Yes.

3 Q And you said September 27, '78, correct --

4 A Yes.

5 Q -- for your date of birth?

6 Ever been convicted of a felony?

7 A No.

8 MR. GOINES: Zach, can we go off the record,  
9 please?

10 MR. KWELLER: Sure.

11 (Discussion off the record.)

12 MR. GOINES: While we were off the record,  
13 Mr. Shockley gave me his Social Security information.

14 Thank you for that.

15 Q Are you currently taking any medications?

16 A Baby aspirin.

17 Q Did you say baby aspirin or maybe aspirin?

18 A Baby.

19 Q Baby aspirin. I knew it was one of those two.  
20 Every day?

21 A Yes.

22 Q Anything prescribed from a doctor?

23 A No.

24 Q And what do you take the baby aspirin for?

25 A It's anticancer properties.

1 Q Not for pain?

2 A No. Actually, I do take Advil, as needed, for  
3 my hands.

4 Q For your hands?

5 And when did you start feeling the need to  
6 take Advil because of pain in your hands, best estimate?

7 A (No audible response.)

8 Q More specifically, the injury we're discussing  
9 today is a cumulative trauma through February of 2019.  
10 Were you taking the baby aspirin for your hands before  
11 February of 2019? For pain in your hands.

12 A No. Advil I've taken throughout -- on and off  
13 throughout -- or since probably about the beginning of  
14 the year.

15 Q This year?

16 A Yes, but I don't recall exactly how often.  
17 But I do take Advil before going to bed, if my hands  
18 hurt a lot.

19 Q And is that every day?

20 A No.

21 Q Not every day?

22 In an average week, how many times would you  
23 take that Advil at night?

24 A If I'm having a flare-up, every day. If I'm  
25 not having a flare-up, then I try not to take it.

1 Q Do you have private health insurance?

2 A Yes.

3 Q And who is that through?

4 A My employer.

5 Q Do you have insurance outside of your  
6 employer?

7 A No.

8 Q So I'm going to ask some questions about  
9 medical treatment specifically within the past five  
10 years. However, I'd like to focus on treatment not  
11 relating to this claim. Does that make sense?

12 A Can you repeat that?

13 Q No problem. So before we talk about your  
14 injury and medical treatment for this injury, part of my  
15 job is to find out your general medical history in the  
16 past. So as I said within -- strike that.

17 When did you first receive treatment for your  
18 hands or your wrists at any time in your life?

19 A (No audible response.)

20 Q Best estimate.

21 A Around 2009, over ten years ago, I had some  
22 pain in my right wrist. And I went in for one visit to  
23 a doctor, and he taught me how to do an exercise that  
24 would send warmth to my hands through some type of a  
25 focus. And I assume that would be considered treatment.

1 Q Meditative almost, type? Is that what you're  
2 saying?

3 A Correct.

4 Q Okay. And this was around 2009?

5 A It was over ten years ago.

6 Q And that was for your right wrist?

7 A For my right wrist, yes.

8 Q Do you recall the name of that doctor?

9 A Yes.

10 Q And who was that?

11 A Dr. Markison.

12 Q And do you recall where Dr. Markison was  
13 located?

14 A On Van Ness Street in San Francisco.

15 Q Okay. And was that -- from the best of your  
16 recollection, was that the first time that you ever  
17 received treatment for your right wrist?

18 A Yes.

19 Q And when I say wrist, I'm kind of encompassing  
20 the hand and fingers as well. So would the question be  
21 the same, Is that the first time you also received  
22 treatment for your hand or fingers on your right hand?

23 A Was it the first time? Can you repeat that?

24 Q Yes. So the current injury is for your  
25 bilateral upper extremity, which includes your hand and

1       your fingers and your right wrist. I'm trying to find  
2       out whether you ever previously received treatment for  
3       any of those body parts.

4               I know 2009, you said, was for your right  
5       wrist, correct?

6       A       Yes. It was at one visit for my right wrist,  
7       and it -- there was no therapy after that. It consisted  
8       solely of the one visit and the exercise that he taught  
9       me at the office to do at home.

10      Q       And from the best of your recollection, what  
11       was your impetus for going to get that treatment in  
12       2009? For example, was there a specific injury that  
13       happened?

14      A       My right wrist was bothering me.

15      Q       It kind of developed over time?

16      A       Yes.

17      Q       And after you had that one treatment with this  
18       Dr. Markinson (sic) --

19      A       Markison.

20      Q       I have --

21      A       M-A-R-K-I-S-O-N.

22               MR. KWELLER: Is it Robert Markison?

23               THE WITNESS: Yes.

24               MR. GOINES: That's what I found as well, at  
25       2000 Van Ness Avenue, No. 204.

1                   Q     After you had that one treatment with  
2     Dr. Markison, did your right wrist resolve, meaning no  
3     more pain?

4                   A     Pretty quickly.

5                   MR. KWELLER: May I jump in, James?

6                   MR. GOINES: Yes, please.

7                   MR. KWELLER: The techniques that were taught  
8     to you by Dr. Markison, meditative techniques to reduce  
9     the stress in your wrist, how long did you perform those  
10    activities after your initial visit with Dr. Markison?

11                  THE WITNESS: Only a few times. The pain went  
12    away on its own. I didn't feel that it -- that  
13    particular exercise was all that much helpful, but it  
14    didn't matter because it went away pretty fast.

15                  MR. KWELLER: Okay. And when you say pretty  
16    fast, was it two weeks, a month or more than a month?

17                  THE WITNESS: Within a few weeks, it was gone.

18                  BY MR. GOINES:

19                  Q     Did you miss any time from work because of  
20    that right wrist back in '09?

21                  A     I don't recall.

22                  Q     Did you have any other treatment for your  
23    right wrist? And, again, this is all before your  
24    current injury.

25                  MR. KWELLER: For the period of time from that

1 one visit with Dr. Markison --

2 MR. GOINES: Precisely.

3 MR. KWELLER: -- up until you received  
4 treatment for this procedure --

5 THE WITNESS: I haven't had any more treatment  
6 at all.

7 BY MR. GOINES:

8 Q And would the same be for your right hand, no  
9 treatment until this workers' compensation claim?

10 A I don't know how -- that question is different  
11 from the last one? I don't know.

12 Q It's kind of the same in essence that -- so  
13 when you went in 2009 to see Dr. Markison, it was only  
14 for your right wrist, correct?

15 A Correct.

16 Q So no problems with your right hand at that  
17 time?

18 A No.

19 Q And so now my questions are for your hand.

20 Did you have any issues with your right hand  
21 before your current workers' compensation claim?

22 A No, no problems since the issue resolved. I  
23 mean, the only -- I guess my issue is that I -- that I  
24 was getting confused with the question. I haven't had  
25 any issues since that visit with Dr. Markison.

1 Q And just to be clear, when you went to see  
2 Dr. Markison, I know it was for your right wrist. Did  
3 you also go see him because you had right hand pain?

4 A As far as I can recall, it was my right  
5 hand -- I mean, sorry -- my right wrist. But I  
6 couldn't -- I just say hand area for the sake of  
7 convenience. But, yes, it was the right wrist, as far  
8 as I can recall.

9 Q Understood.

10 And before that -- strike that.

11 And, again, that was the first time you ever  
12 had medical treatment for your right wrist, 2009,  
13 Dr. Markison?

14 A (No audible response.)

15 Q I'll rephrase. From the best of your  
16 recollection, the first time you ever got any medical  
17 treatment for your right wrist was with Dr. Markison in  
18 2009?

19 A Yes.

20 Q Got it.

21 Have you ever had any surgeries?

22 A In my body?

23 Q Yes.

24 A Yes.

25 Q Have you -- did you previously injure your

1 ankle?

2 A Yes.

3 Q And when was that?

4 A In the '90s, 199- maybe '6 or '7. 1996 or '7.

5 Q So you have had prior workers' compensation  
6 claims, correct?

7 A Yes.

8 Q Were any of them for overlapping body parts,  
9 meaning the same body parts that we're here for today?

10 A No.

11 Q The prior workers' compensation claims, it  
12 looks like they were all for your ankle or feet. Is  
13 that correct?

14 A Yes.

15 Q So insurance companies provide me with what's  
16 called an ISO report. That pretty much just pulls an  
17 individual's Social Security number, name, address to  
18 see if any matching claims come up, not just for work  
19 comp but also motor-vehicle accidents. I'll ask that  
20 question now:

21 Have you ever been in a car accident, a motor-  
22 vehicle accident?

23 A No.

24 Q And with respect to prior workers'  
25 compensation claims, you have filed some; is that

1 correct?

2 A Yes.

3 Q I see a May 18th -- strike that.

4 I see a March 25th, 1998 left foot injury  
5 against Boston Ballet. Does that sound familiar?

6 A Correct.

7 Q And then a December 2nd, 1998 injury to both  
8 your feet against the Tulsa Ballet Theater. Does that  
9 sound familiar?

10 A Correct.

11 Q I'll start one by one.

12 The March 25th, 1998, did that claim resolve,  
13 meaning settle?

14 A The March 1998 was the Boston Ballet?

15 Q Boston Ballet, correct.

16 A Did it resolve? What do you mean by resolve?

17 Q Meaning did you reach a -- you had an  
18 attorney, correct?

19 A No, I didn't.

20 Q You dealt with an insurance company, though,  
21 correct? Zurich, I believe?

22 A They did all the work for me. I was very  
23 young.

24 Q You received medical treatment, I'm assuming?

25 A That's it, and I did go back to work.

1 Q And then you went back to work.

2 A Yes.

3 Q So you did not receive a lump sum of money?

4 A No.

5 Q Okay. And then the same question for the  
6 December 1998 Tulsa Ballet: Did you just receive  
7 medical treatment?

8 A I don't even -- I don't remember receiving  
9 medical treatment.

10 What was the question again?

11 Q For the December 2nd, 1998 injury for your  
12 feet against Tulsa Ballet, I'm assuming you received  
13 some medical treatment. Is that correct?

14 A I don't recall, but it's been a while.

15 Q I understand. It is quite some time ago.  
16 That's why I can always ask for your best estimate only.

17 From the best of your recollection, do you  
18 recall receiving any settlement money for that --

19 A No.

20 Q All right. And then I have a May 18th, 2001  
21 injury to your Achilles against the San Francisco Ballet  
22 Association. Does that sound familiar?

23 A Yes.

24 Q And kind of the same questions for that: Did  
25 you receive medical treatment?

1           A     Yes.

2           Q     Did you have an attorney?

3           A     No.

4           Q     Did you return back to work at full duties?

5           A     No.

6           Q     You never returned back to work with the  
7     San Francisco Ballet Association?

8           A     No. I had to retire from my classical -- from  
9     my ballet career.

10          Q     And was that because of your Achilles injury?

11          A     Correct.

12          Q     Do you recall from the May 18th, 2001 claim if  
13     you received a settlement?

14          A     I received some money, yes. I assume that  
15     that is the settlement.

16          Q     Yes. Do you recall how much?

17          A     10,000.

18          Q     And did you have an attorney?

19          A     No.

20          Q     The last one I have is a September 24, 2001  
21     injury for your ankle --

22          A     Actually --

23          Q     Go ahead.

24          A     I got confused because I did -- I had two  
25     surgeries on my Achilles tendon. So that lump sum I

1 just mentioned would apply to the second -- I mean, the  
2 second surgery was for the same Achilles tendon, so  
3 I'm -- the sum would be for after the second.

4 Q I see. Because the May 18th, 2001;  
5 September 24, 2001 are both against San Francisco Ballet  
6 for your ankle. And so you said you had two Achilles  
7 surgeries. Is that correct?

8 A Yeah. Same injury, different...

9 Q Right side or left side?

10 A Right Achilles tendon.

11 Q Right Achilles two times?

12 A Two surgeries.

13 Q Did the second -- strike that.

14 Q Was the second surgery successful?

15 A Partially.

16 Q But, again, those prior claims were not for  
17 overlapping body parts, correct? Meaning the injury  
18 we're here for today is different than your prior  
19 injuries, correct?

20 A Yeah.

21 Q Any other surgeries, other than the Achilles?

22 A Yes.

23 Q What did you have, what kind of surgery?

24 A The adenoids. Oh, I had a surgery, a  
25 sympathectomy.

1 Q When was that?

2 A (No audible response.)

3 Q Best estimate.

4 A Maybe the year 2000, 2001, something like  
5 that.

6 Q And where was that, best estimate?

7 A Where?

8 Q Yeah, the location.

9 A It was -- the sympathetic nerve is --

10 Q Sorry. The location of the actual surgery,  
11 what facility?

12 A It was in San Francisco. I don't remember the  
13 hospital.

14 Q Any other surgeries?

15 A Oh, yes. I had a -- the Lasik surgery in my  
16 eyes. Oh, and I also had a bone spur on my big toe, and  
17 that was removed.

18 Q And when was that, years?

19 A That was before the Achilles tendon injury, so  
20 2000?

21 Q Was that for your right foot?

22 A Right foot.

23 Q Okay. Have you been to the emergency room for  
24 any reason in the last five years?

25 A Yes.

1 Q For what?

2 A One time my urine was red. Another I had a  
3 kidney stone. And another I had difficulty breathing.

4 Q And these were all within the last five years?

5 MR. KWELLER: Approximately.

6 THE WITNESS: Approximately. Maybe one of  
7 them was further back, but roughly.

8 BY MR. GOINES:

9 Q What ER did you go to?

10 A Saint Francis.

11 Q That's in San Francisco?

12 A Yes.

13 Q Do you know what street that's on?

14 A (No audible response.)

15 Q Or which one did you go to?

16 A It is on Hyde Street, I believe.

17 Q Correct. Good memory. It's on 900 Hyde  
18 Street.

19 Okay. Do you have any what would be  
20 considered chronic health conditions? Diabetes,  
21 hypertension, anything like that?

22 A Not that I'm aware of, no.

23 Q Have you ever treated at a Kaiser hospital?

24 A I don't know.

25 Q Do you recall if you have a Kaiser medical

1 record number?

2 A No.

3 Q Is that you don't know or you are positive  
4 you've never had -- I'll phrase it this way:

5 Are you positive that you have never had a  
6 Kaiser medical record number?

7 A I don't know.

8 Q But from the best of your recollection, you do  
9 not recall treating at a Kaiser?

10 A I don't know.

11 Q The only reason we ask is, if someone's ever  
12 treated at Kaiser, to get medical records we need them  
13 to sign a release. It looks like you haven't, so you  
14 won't need to sign it. So that's not a problem, but  
15 that comes up in every depo.

16 I was born at a Kaiser in Redwood City, and I  
17 would probably have to fill that out to get my own  
18 medical records. They are very specific.

19 MR. KWELLER: Oh, no. They have a whole  
20 separate one if you want your own.

21 MR. GOINES: Oh, do they?

22 MR. KWELLER: Yeah. Because, when I left  
23 Kaiser, I needed them for my new personal doctor. It  
24 was a whole different process.

25 MR. GOINES: When I went to law school in

1       Southern California, Kaiser Southern California is  
2       different. They don't even recognize each other.

3                    MR. KWELLER: Yep. When I worked for Gilson  
4       Daub, I had Kaiser Southern California. Tried to use it  
5       in Northern California, and they got mad at me.

6                    MR. GOINES: Thankfully, neither here nor  
7       there.

8                    Q       So turning, Mr. Shockley, to your employment  
9       history. I'm going to ask some questions about prior  
10      employment. We've gone over prior injuries, so we won't  
11      need to go deeply into that. I'll ask some questions  
12      about your employment history, then we'll take a  
13      five-minute break because we're almost about halfway  
14      through.

15                   So with respect to employment, I usually like  
16      to ask for about the past ten years or so. But we'll  
17      start with -- it's usually best to start working  
18      backwards.

19                   So, for example, Biotelemetry, the current  
20      employer, when did you start working with them?

21                   A       It was June 2018, as far as I remember.

22                   Q       I have June 25th, 2018. Does that sound  
23      familiar?

24                   A       What was it again? What was that again?

25                   Q       June 25 of 2018 is when you started?

1 A Sounds about right.

2 Q And it looks like you last worked February 15,  
3 2019, correct?

4 A Yes.

5 Q Okay. Who did you work for immediately  
6 before --

7 And for the record, I'm going to refer to  
8 Biotelemetry as "the employer" so it's a little simpler.

9 Who did you work for immediately before the  
10 employer?

11 A By immediately you mean --

12 Q So June 25th is when you started with the  
13 employer. Who did you work for right before then?

14 A I don't know if I was working right before,  
15 but you want to know the previous employer?

16 Q Yeah. So we're going to work backwards from  
17 June '18.

18 A Okay. I was working for Pacific Chess School.

19 Q And where is that located?

20 A They have different locations. I would just  
21 go to a particular school to teach.

22 Q To teach chess?

23 A Chess, yes.

24 MR. KWELLER: Which location did you go to?

25 THE WITNESS: I don't recall exactly.

1                   MR. KWELLER: What city was it in?

2                   THE WITNESS: Oh, it was in San Francisco.

3                   MR. KWELLER: Do you remember the neighborhood  
4                   that it was in?

5                   THE WITNESS: I can't right now.

6                   BY MR. GOINES:

7                   Q        How long did you work for them?

8                   A        I think I worked for almost two years.

9                   Q        Were you ever injured working for Pacific  
10                   Chess School?

11                  A        No.

12                  Q        And I assume your job duties included a use of  
13                   your hands because you are teaching chess. Would you  
14                   agree with that?

15                  A        Yes.

16                  Q        Roughly how many hours would you work on an  
17                   average day?

18                  A        I only worked once or twice a week for  
19                   maybe -- I think it was an hour and a half. So it was a  
20                   part-time job, very part time.

21                  Q        While you were working for Pacific Chess  
22                   School, did you ever feel any pain in your right wrist  
23                   or right hand?

24                  A        No.

25                  Q        And you said no injuries there?

1 A No.

2 Q What about who did you work for before Pacific  
3 Chess School?

4 A I worked for Berkeley Chess School.

5 Q UC Berkeley or the City of Berkeley, or is it  
6 just called Berkeley Chess School?

7 A It's called Berkeley Chess School.

8 Q And roughly when did you work for them?

9 A I think it was 2015 and '16, something like  
10 that.

11 Q And, generally, what were your hours?

12 A (No audible response.)

13 Q More specifically, was it full time?

14 A No.

15 Q Part time?

16 A Part-time after school activities for the  
17 children. So I would teach maybe four times a week,  
18 sometimes even five. But the class would be one hour  
19 and a half. But it depends. When I started, I was  
20 teaching less. Then I started teaching more.

21 Q On an average week, how many hours do you  
22 think you worked for Berkeley Chess School, best  
23 estimate?

24 A You mean if I were to make an average out of  
25 all the time that I was there?

1 Q Just on an average week, what would you say?

2 A (No audible response.)

3 Q If you can't do an average, maybe do an --

4 A About you mean a week or a day?

5 Q Week.

6 A I would work maybe eight hours a week.

7 Q So it was not every day?

8 A I believe some weeks it was every day, but it  
9 was just one hour and a half or so in the evening.

10 Q When you were working for Berkeley Chess  
11 School, did you ever feel pain in your right wrist or  
12 right hand?

13 A No.

14 Q Any injuries working with Berkeley Chess  
15 School?

16 A No.

17 Q And who did you work for before Berkeley Chess  
18 School? So around 2014 now.

19 A I worked for San Francisco Youth Ballet.

20 Q Generally -- or best estimate on the time  
21 period.

22 A I think it was 2012, '13 and '14. Or maybe in  
23 2011 as well. I don't recall exactly.

24 Q And is this -- that's fine.

25 Q Is this a different employer than the

1 San Francisco Ballet Association?

2 A Yes. This is a much smaller school.

3 Q What was the name again?

4 A San Francisco Youth Ballet.

5 Q And this San Francisco Ballet Association, we  
6 know you worked for them in 2001 because you had the  
7 ankle injuries. I believe you said you retired after  
8 this September 2001. Is that correct?

9 A As a professional ballet dancer, yes.

10 Q As a professional, you retired around 2001?

11 A No. I considered myself retired in 2003  
12 because I had a surgery -- the second surgery maybe in  
13 2002 or '03. And after that I didn't recover, so at  
14 that point I considered myself retired. But 2001 I  
15 still had hopes.

16 Q Never want to lose hope.

17 So when you said second surgery, that was your  
18 second Achilles surgery, right?

19 A Correct.

20 Q Okay. So after the second Achilles surgery,  
21 around 2003 is when you would consider yourself to have  
22 formally retired from professional ballet?

23 A Well, I had the faint hope that my foot would  
24 somehow recover. But, yeah, that was when, I guess, I  
25 started realizing I would not be able to go back as a

1 professional ballet dancer.

2 Q So -- and then what about --

3 So returning to the S.F. Youth Ballet from  
4 roughly 2011 to 2014, did you have any injuries while  
5 working with the S.F. Youth Ballet?

6 A Can you repeat that? Sorry.

7 Q Did you have any injuries working with S.F.  
8 Youth Ballet?

9 A No.

10 Q And was that full-time work?

11 A No.

12 Q On an average week, how many hours would you  
13 work?

14 A (No audible response.)

15 Q Best estimate.

16 A Maybe -- okay. Give me some time here. Ten  
17 maybe.

18 Q And were you teaching ballet --

19 A Yes.

20 Q -- to --

21 I assume, because it's youth ballet, so you  
22 were teaching children ballet?

23 A Yes.

24 Q Since -- well, strike that.

25 The last time you worked with the employer was

1           February 15, 2019, correct?

2           A       With Biotelemetry?

3           Q       Correct.

4           A       February 15th, I believe, yes, that was the  
5           last day.

6           Q       You have not returned since then?

7           A       I haven't returned.

8           Q       So since then -- since February 15, 2019 --  
9           have you had any new injuries?

10          A       Any new injuries to any part of the body?

11          Q       To be specific, we're here for the bilateral  
12         upper extremity, so your right wrist, hand and forearm,  
13         correct?

14          A       Yes.

15          Q       So, specifically, have you had any new  
16         injuries to those body parts since February '19?

17          A       No.

18          Q       Did you have any injuries to any other body  
19         parts since February of '19?

20          A       My big toe hurt -- or rather started hurting a  
21         few weeks back, and that's all I can recall.

22          Q       From your best estimate, why did that pain  
23         start?

24          A       The big toe?

25          Q       Correct.

1           A    I don't know. I was walking a lot, and I wore  
2            a toe spacer. But the doctor didn't know what the cause  
3            was. But it already feels better.

4           Q    The bone spur surgery that I believe you said  
5            was in 2000 --

6                    Is that correct, best estimate?

7           A    Yes.

8           Q    I believe that's what I wrote down.

9                    -- that was for your right foot, correct?

10          A    Correct.

11          Q    Was the bone spur on your big toe?

12          A    Yes.

13          Q    So the -- strike that.

14                    The previous bone spur surgery was for the  
15            right toe. That's the same toe that you said started  
16            hurting a couple of weeks ago?

17          A    Yes.

18          Q    Has that pain resolved?

19          A    To a substantial extent, yes.

20                    MR. GOINES: Okay. We'll take a five-,  
21            ten-minute break. We'll turn to your actual injury.  
22            I'd say we're at least halfway done, so we will not keep  
23            you here much longer.

24                    (Recess.)

25                    BY MR. GOINES:

1                   Q     Okay. Mr. Shockley, we left off talking about  
2     your prior injuries, prior employment. Now I'm going to  
3     turn to your employment with Biotelemetry, as well as  
4     the injury.

5                   We've already established you started  
6     June 25th, 2018, right around there. That sounds  
7     familiar?

8                   A     You said 2018?

9                   Q     June 25, 2018?

10                  A     Yes.

11                  Q     And just to be sure, it was the 15th, was your  
12     last day worked, of February of '19?

13                  A     Yes.

14                  Q     What was your job title with Biotelemetry?

15                  A     I was a Tech 1.

16                  Q     And briefly describe your job duties for me.

17                  A     Basically editing, classifying EKGs that come  
18     in through mobile cardiac devices that people wear. And  
19     also there was some phone calls that I had to pick up,  
20     basically to tell them about a particular EKG. So they  
21     call, and you tell them what the EKG says.

22                  And then -- you know, but that only lasted --  
23     or rather, it was more at the beginning, first few  
24     months. And then it was more purely just processing the  
25     EKGs straight from the computer so -- but the phone

1 calls are, yeah, a minority of the time.

2 Q When you say processing EKGs, is that on a  
3 computer?

4 A Yes.

5 Q So you are using a keyboard?

6 A Yes.

7 Q And a mouse?

8 A Yes.

9 Q And, generally, how many hours would you work  
10 per week?

11 A 40 hours a week.

12 Q And during those 40 hours, what's your best  
13 estimate on how much of that time was spent using a  
14 computer or a mouse? Strike that. We'll do it more  
15 specific.

16 So a normal eight-hour day, what's your best  
17 estimate on how long you would spend on the keyboard?

18 A Out of, like, every day, how many hours?

19 Q Yeah, just best estimate.

20 A You mean mouse and keyboard?

21 Q Combined, both of those together.

22 A Let me see.

23 Q How about this --

24 A Seven hours.

25 Q So more than 50 percent of your time?

1           A     Yes. I mean, it was all you do. Pretty much  
2     all you do.

3           Q     Almost the entire time?

4           A     Yeah. Yes.

5           Q     Okay. And so you developed pain over time,  
6     I'm assuming. Is that correct?

7           A     Yes.

8           Q     And where specifically was that pain?

9           A     You want me to go through it chronologically?

10           MR. KWELLER: Yes, please.

11           THE WITNESS: Okay. So, basically, my hand  
12     and my wrist started hurting.

13           MR. KWELLER: Your left or your right?

14           THE WITNESS: On my right hand started  
15     hurting. And, you know, also, you know, the forearm  
16     tendons. Well, or whatever -- whatever -- I don't want  
17     to -- I don't want -- I don't know exactly all the parts  
18     of the forearm.

19           But, basically, forearm, wrist and hand  
20     started hurting on the right hand. And then I -- when  
21     that happened, I switched to a left mouse and I  
22     incorporated a pedal as well so that my right hand  
23     would -- to take off some of the load of my right hand.

24           BY MR. GOINES:

25           Q     Sorry to interrupt, but did you say a pedal?

1           A     Yeah, a pedal for clicking.

2           Q     I see what you mean. On the left-sided mouse?

3           A     No. So, basically, I started using a left  
4     mouse -- left vertical mouse as well as a pedal,  
5     basically to reduce the load of the clicking. So you  
6     move the mouse and you click so that you don't -- you  
7     know, you spread the load.

8           Q     You click with your foot --

9           A     Correct.

10          Q     -- instead of using your hand?

11           MR. KWELLER: Kind of like using a bass drum?

12           THE WITNESS: Well, yeah. You are basically  
13     spreading the load so that the hands have less load.

14           MR. KWELLER: Okay. I think we're trying to  
15     understand what type of pedal it is.

16           THE WITNESS: Oh, it is -- it's a pedal that  
17     you -- yeah, it has the same function as a click. So  
18     you press on the pedal, and that's a click.

19           MR. KWELLER: Okay. Is it a light press, a  
20     heavy press? How sensitive is this pedal?

21           THE WITNESS: It is a -- it's not too light.  
22     It's somewhere in the middle. And, definitely --  
23     actually, my foot started bothering me when I did too  
24     much of that. But that pain, fortunately, did go away.  
25     But, yeah, it was use of the left mouse and then adding

1 of the pedal.

2 And I forgot what the original question was.

3 BY MR. GOINES:

4 Q It's not a problem. In essence, you would  
5 move -- when you were using your left hand, the mouse,  
6 you would use your left hand to move the mouse but you  
7 would use the pedal for the clicking function?

8 A Correct.

9 Q Understood.

10 And did your employer give you that, or did  
11 you --

12 A Actually, let me correct that. I started with  
13 the left mouse without the pedal, and then I added the  
14 pedal. So, basically, offloaded from the right to the  
15 left. Started using the left, and then at some point I  
16 incorporated the pedal as well.

17 Q And so were you feeling the -- I know you were  
18 feeling pain in your right wrist and right hand and  
19 right forearm. What about your left wrist and left hand  
20 and left forearm?

21 A Yes, all of those, uh-huh.

22 Q So it was both sides?

23 A Yeah, yeah.

24 MR. KWELLER: One after the other?

25 THE WITNESS: One after the other, yes. So

1       the right; and that's the reason why I offloaded to the  
2       left, is to rest the right. And then the left started  
3       bothering me.

4       BY MR. GOINES:

5           Q       Developed right pain. Started -- and because  
6       of that, started using the left mouse. And then  
7       developed some pain in the left side as well?

8           A       Yeah.

9           Q       Okay. And are you right-handed?

10          A       Yes, mostly.

11          Q       Throughout the life of your medical treatment,  
12       was the right side worse?

13          A       (No audible response.)

14          Q       The pain. Was the pain more significant in  
15       the right side?

16          A       No, they both -- the day I stopped work, both  
17       hands were just as bad. But I do feel the right is  
18       worse overall.

19          Q       So when you stopped working, equal pain; but,  
20       generally, you would say the right side is a little bit  
21       worse?

22          A       Yes. It is easier to get a flare-up on the  
23       right. And also, because I use it for -- or I have a  
24       tendency to use it for more things because I'm mostly  
25       right-handed, then I tend to, you know -- you know,

1       after the -- I quit working, the recovery is -- you  
2       know, is something that the right hand takes longer to  
3       achieve sometimes. I don't know if I worded that  
4       correctly. Sorry.

5           Q       Okay. And you had treatment with Dr. O. Lang.  
6       Does that sound familiar, O. Lang?

7           A       Yes. Yeah.

8           Q       Patrick O. Lang, does that sound familiar?

9           A       Uh-huh.

10          Q       And it looks like at some point Dr. O. Lang  
11       said that you were permanent and stationary. Does that  
12       sound familiar?

13          A       Yes.

14          Q       But Dr. O. Lang gave you permanent work  
15       restrictions; is that correct?

16          A       Correct.

17          Q       Do you recall what those were?

18          A       Yeah, no computer use.

19           MR. KWELLER: Do you recall if there were any  
20       other restrictions.

21           THE WITNESS: Well, he told me to limit my  
22       hand activity, period. I mentioned that, you know,  
23       lifting objects or pretty much doing anything, including  
24       even holding my phone or, you know, typing on my phone,  
25       all that hurt my hand. So he told me to, you know,

1           reduce hand activity.

2                   And I did mention that to him, that all these  
3           things bothered me. But I read the report, and it --  
4           what it said was the computer restriction, work  
5           restriction.

6           BY MR. GOINES:

7           Q        Yeah, I have the 5/28/19 report.

8                   "Work status: Modified duty with no use  
9           of the computer."

10                  So that was the only restriction, but the  
11           employer was not able to accommodate that. Correct?

12           A        Apparently, yes.

13           Q        Was that in essence because the bulk of your  
14           duties involved using a computer?

15           A        That was my -- that was my guess.

16                  Oh, my God.

17                  MR. KWELLER: Do you need a break?

18                  THE WITNESS: Let me just...

19                  MR. GOINES: I'll be done in less than five  
20           minutes.

21                  THE WITNESS: Let me just walk a little bit.

22           BY MR. GOINES:

23           Q        As we said, you have not gone back to work  
24           with Biotelemetry, correct?

25           A        No.

1 Q And you started receiving EDD benefits,  
2 disability benefits with the State?

3 A Yes.

4 Q Do you have any issues with your fingers on  
5 your right hand?

6 A Yes.

7 Q What about your fingers on your left hand?

8 A Well, it's the -- it's the tendons in the hand  
9 as I move the fingers and as I utilize the fingers.

10 Q So just so we can have everything clear  
11 because a lot of these body parts kind of bleed into  
12 each other, on the right side it's the right forearm,  
13 the right wrist, the right hand and right fingers,  
14 correct?

15 A Correct.

16 Q Anything else on the right side?

17 A (No audible response.)

18 Q Do you have any issues with your elbow?

19 A Okay. So I mentioned to the doctor that, when  
20 I got a flare-up, the pain was radiating into my  
21 shoulder.

22 Q All the way up?

23 A It was almost touching my neck. And, yeah, he  
24 told me that that's normal because there's some nerve  
25 connection. But that flare-up into the shoulder only

1       happened during the -- like, a bad flare-up. So most of  
2       the time it is from my elbow down to the fingers.

3           Q     And that's on the right side?

4           A     Well, that's on both sides. What do you mean?

5           Q     Well, again, like I said, so a lot of these  
6       body parts kind of bleed into each other. Sometimes  
7       people have just a finger injury and it has nothing to  
8       do with their hand. Sometimes people have an elbow  
9       injury and it includes the forearm, the wrist, the hand,  
10      the fingers. So that's part of what I'm here to discern  
11      today.

12               So although I've already asked this, it's  
13       gotten a little convoluted. So we'll just back up and  
14       make sure we have everything.

15               We know that on your right side we're talking  
16       about your elbow, your forearm, your wrist, your hand  
17       and your fingers. And you also said that sometimes the  
18       pain goes up to your right shoulder, correct?

19           A     Yes.

20           Q     But that's only during a flare-up?

21           A     That's correct.

22           Q     And that was one of the next questions I was  
23       going to ask: Generally, how often would you have what  
24       you consider to be a flare-up of pain?

25           A     Well, there is different intensity of

1 flare-ups. If I go over a fairly low amount of hand  
2 activity, I will start getting more pain. And what I  
3 have been describing as a flare-up is, you know, pretty  
4 intense pain.

5 Q Stop you there. So when you say pretty  
6 intense, normally the question I ask is, On a  
7 zero-to-ten scale -- zero, clearly, no pain. Ten being  
8 so excruciating that you instantaneously need an  
9 ambulance to be brought to an emergency room to have  
10 some sort of pain medication. So ten is the highest.

11 A Uh-huh.

12 Q When you have a flare-up, what would you say  
13 your pain is, zero to ten?

14 A I think it's gotten all the way to seven or  
15 eight.

16 Q And, again, how often, normally, would you  
17 have a flare-up? So say on a normal week-to-week  
18 schedule.

19 A Well, okay. So I'm having a hard time  
20 understanding the degrees of intensity and what the  
21 question is as related to those. So that's the worst  
22 flare-up, the one that would be like a seven or an  
23 eight. And I have had only about two of those since I  
24 quit working.

25 Q Okay.

1           A     But the lesser flare-ups, I've had more of  
2     those. And those, they -- they are less painful than a  
3     seven or a eight, and they come about when they  
4     surpass -- or rather when my activity is greater than a  
5     certain amount every day.

6           Q     Do you recall if Dr. O. Lang on May 28th told  
7     you that you needed any medical treatment?

8           A     Can you repeat that? Sorry.

9           Q     Specifically, when Dr. O. Lang, May 28th,  
10    2019, said that you were permanent and stationary --

11          A     Okay.

12          Q     -- do you recall if he told you you needed any  
13    medical treatment?

14          A     He didn't ask me. He simply asked me if I  
15    thought that the current therapy was helping. And I  
16    told him not so much. So he basically seemed to be  
17    offering me to continue with that therapy, but I told  
18    him that it just wasn't helping that much.

19          Q     I have him saying here -- and this is, for  
20    what it's worth, Zach, on page 2 of the 5/28/19 report.

21                  "40-year-old man with bilateral upper  
22    extremity repetitive strain injury."

23                  Which we've talked about. Bilateral meaning  
24    both sides.

25                  "I had a lengthy discussion with the

1 patient today regarding his current status.

2                   Unfortunately, I have no additional treatment  
3                   to offer him."

7 So does that sound familiar, that the doctor  
8 recommend no future medical treatment?

9 MR. KWELLER: Well, let me object to the  
10 question because there could be a discrepancy in what is  
11 written in the report and what was relayed to my client.

12 MR. GOINES: Okay. So then we'll -- because I  
13 always avoid any ambiguities by actually presenting  
14 things, we'll enter Exhibit 1, will be the 5/28/2019.  
15 And we can speak after how you'd like me to get this  
16 exhibit to you.

17                   We'll enter the 5/28/2019 permanent and  
18                   stationary report from Dr. O. Lang, at which time it  
19                   specifically references Treatment, slash, Future  
20                   Medical, none needed. So that clarifies what was  
21                   actually written.

22 Q From the best of your recollection, do you  
23 recall Dr. O. Lang telling you that you do not need any  
24 future medical treatment?

25 A No.

1                   MR. GOINES: I have no further questions,  
2                   Counsel.

3                   THE WITNESS: Excuse me. The last question  
4                   was if I recall him saying that I do not need any --  
5                   okay.

6                   MR. GOINES: Correct.

7                   EXAMINATION

8                   BY MR. KWELLER:

9                   Q        Okay. Mr. Shockley, do you have a computer at  
10                   home?

11                  A        Yes.

12                  Q        And do you use that computer at home?

13                  A        Yes.

14                  Q        Have you purchased modifications from your  
15                   computer -- strike that -- modifications for your  
16                   computer at home so that you may use it within the  
17                   restrictions provided by Dr. O. Lang?

18                  A        Yes.

19                  Q        What types of modifications have you purchased  
20                   so that you may utilize your computer at home?

21                  A        I bought a head pointer that works by moving  
22                   your head and pointing with your head. Two of those,  
23                   actually. I bought -- actually, yes, I bought another  
24                   set of pedals, the ones that I had before and a new one  
25                   as well. And then I also got Dragon speaking software.

1                   Q     Okay. And the pedals you are referring to are  
2 for clicking?

3                   A     Right, so I can use the computer without the  
4 use of my hands at all. But, since I'm using my neck,  
5 it is something that I don't do very -- for a very long  
6 time because my neck gets sore.

7                   Q     Okay. So in addition to your bilateral hands,  
8 fingers, wrists, up to your shoulder during a flare-up,  
9 you have also developed some neck pain?

10                  A     Right, correct, which basically forces me to  
11 limit the amount of time I spent on the computer using  
12 this. Also, I noticed, since I had my toe pain, that it  
13 was hurting to use the pedal as well. Anyway.

14                  Q     And do you attribute your neck pain to having  
15 to modify the way that you use the computer?

16                  A     Sure, as well as my phone.

17                  Q     You have to modify the way you use your phone  
18 as well?

19                  A     I have a mouth stick as well as an actual  
20 physical head pointer, a thing you strap to your head  
21 with a metal point and you move it like this.

22                  And, you know, the only extra thing I would  
23 say is that the voice control on the phone, if you use  
24 it for a while, your voice gets tired as well. But  
25 other than that, those are the modifications on the

1 phone as well.

2 Q Okay. And have you shown any of these  
3 products to Dr. O. Lang throughout the course of your  
4 treatment?

5 A Yes. I mentioned -- I actually showed him the  
6 head pointer, the physical head pointer. I told him  
7 about the other stuff that I'm using, except for the  
8 mouth stick, which is a relatively recent acquisition.  
9 So the mouse -- sorry. The head mouse as well as the  
10 pedals and the Dragon speaking software, those are  
11 things that I told the doctor about.

12 Q Okay. Did he recommend that you use these  
13 products?

14 A Yes. He encouraged me to minimize hand use.

15 Q Okay. Did he tell you about the head pointer,  
16 or is that something that you researched on your own?

17 A He didn't tell me about it, but I did mention  
18 to him that I couldn't use it very long because my neck  
19 would start bothering me.

20 Q Okay. So you did tell Dr. O. Lang that you  
21 were having some pain in your neck?

22 A Yes.

23 Q Okay. And approximately when did you first  
24 experience pain in your neck as a result of utilizing --

25 A Well, the very first day I got it and I

1           started using it, I started feeling, you know, the pain  
2           in the neck because it's just not a very natural thing.  
3           You also have to coordinate the feet with the head.

4                   So, for instance, there's a pedal out of the  
5           three pedals where -- basically because, when you are  
6           moving it, it's not as precise as the hand. So it's  
7           moving kind of fast. And so to slow down the pointer or  
8           the arrow, you press the right pedal to slow down the --  
9           you know, the arrow. So there's -- you have to be  
10           coordinated.

11           Q       And approximately when did you purchase the  
12           head pointer?

13           A       It was several months ago. I can't remember  
14           exactly when I bought it, but it has been, you know,  
15           quite a few months. But it was after the -- I believe  
16           it was after my last day of work, but I'd have to  
17           doublecheck exactly when I bought that, yeah.

18           Q       Okay.

19           A       But, yeah, are you talking the head pointer  
20           for the computer or for the phone or both?

21           Q       The head pointer for the computer.

22           A       It was several months ago. I don't recall  
23           exactly the day.

24           Q       Okay. But sometime shortly after you stopped  
25           working for your employer?

1           A    I believe so, yes.

2           Q    Okay. And how long after you purchased the  
3           head pointer for the computer did you tell Dr. O. Lang  
4           that it was bothering your neck?

5           A    As -- it was as soon as it came up in the  
6           conversation. I believe it was in the very -- no. You  
7           know, I'm actually not exactly sure if it was in the  
8           second meeting. But anyway, it was in one of our  
9           meetings I told him about it. I just don't recall  
10           exactly when.

11           Q    And the treatment that you received, did you  
12           go initially to Dr. O. Lang or did you see somebody  
13           before that?

14           A    Did I try to see anybody?

15           Q    Under the workers' compensation claim.

16           A    Yes.

17           Q    Did you see anyone before starting to treat  
18           with Dr. O. Lang?

19           A    No.

20           Q    Okay. So Dr. O. Lang is the only person that  
21           you treated with?

22           A    Yes.

23           Q    Okay. Did Dr. O. Lang perform any diagnostic  
24           studies, such as an MRI of any body part?

25           A    No.

1           Q     Did he perform nerve or muscle tests on either  
2     arm?

3           A     No.

4           Q     What medical treatment did you receive from  
5     Dr. O. Lang?

6           A     The therapy.

7           Q     How many visits of therapy did you receive?  
8                   And I presume physical therapy?

9           A     Yes, physical therapy.

10                  How many? Maybe 20. I don't recall exactly  
11     how many, but maybe around that. Or maybe more. Maybe  
12     twenty-something. I'm not exactly sure the number of  
13     them.

14           Q     Okay. Did he ever discuss with you obtaining  
15     any diagnostic studies?

16           A     Yes. He told me that it is hard to see the  
17     injury through some of the more standard means, such as  
18     x-ray.

19           Q     What about MRIs or nerve and muscle testings,  
20     did he discuss those with you?

21           A     I believe he mentioned that, through any of  
22     the means currently available, that it was not so easy  
23     to see that. But he did mention that, as part of what  
24     could be going on, that I could have tendonitis or even  
25     some other things that could be seen. But that he told

1 me that RSI, some of the aspects of that are not easily  
2 discernable with some of the standard means of  
3 radiography.

4 Q Okay. But he did not try to do a rule-out  
5 diagnosis by way of diagnostic studies, to see if it  
6 could be something else?

7 A A rule-out? Can you explain that?

8 Q So a rule-out diagnosis is he has a general  
9 idea of what he believes is the issue. But he hasn't  
10 confirmed by way of imaging to see if it is actually  
11 that or something else that could be seen on imaging?

12 A That is correct, he didn't do that.

13 MR. KWELLER: Okay. I don't have any further  
14 questions.

15 MR. GOINES: So I have follow-up questions.  
16 And I'm restricted to only talk about the questions that  
17 your attorney had talked about, which I can easily do.

## FURTHER EXAMINATION

19 BY MR. GOINES:

20 Q Firstly, so is it your testimony that you told  
21 Dr. O. Lang that you had neck pain?

22 A Yes.

23 MR. GOINES: So the only way I'm going to be  
24 able to do this is I'm also going to have to enter some  
25 other exhibits. Counsel, because, from my review of the

1       medical records, there's never been any indication  
2       whatsoever of any neck pain.

3                   So aside from the 5/28/19 report, I'll have to  
4       enter Exhibit 2, which is going to be the March 1, 2019  
5       initial report.

6           Q       Mr. Shockley, is it your testimony that, from  
7       the best of your recollection, Dr. O. Lang never did any  
8       sort of tests on either one of your arms?

9           MR. KWELLER:   Objection.  Can you clarify  
10      tests?  Because it has several meanings within the  
11      context of medical testing.

12     BY MR. GOINES:

13           Q       During your examinations with and your  
14      treatments with Dr. O. Lang, did he physically examine  
15      either of your arms?  Meaning, did he touch them and  
16      feel them and ask questions?

17           A       Not once did he touch my hands.

18           Q       Okay.  So that's specifically why I'll enter  
19      the March 1, 2019 initial exhibit.  I won't read  
20      everything, but we have a physical exam here clearly  
21      stating:

22                   "Examination of the bilateral  
23      extremities reveals no deformity."

24                   Tinel's sign, which is technically a  
25      diagnostic, is negative.  Finkelstein's test, negative.

1                   Wrist and digital range of motion, normal bilaterally,  
2                   meaning he did test your range of motion. Sensation is  
3                   grossly intact distally bilaterally.

4                   I will enter that exhibit.

5                   MR. KWELLER: Okay. I object to the  
6                   commentary on the report --

7                   MR. GOINES: That's fine.

8                   MR. KWELLER: -- because testing could be  
9                   performed without physical touching of the applicant.

10                  MR. GOINES: I would disagree because  
11                  Dr. O. Lang very specifically put here that there was an  
12                  examination of the bilateral upper extremities. And, in  
13                  my opinion, I don't know how he would be able to come up  
14                  with these determinations without making any sort of  
15                  physical contact.

16                  Q        But, again, it is your testimony that you  
17                  reported neck pain to Dr. O. Lang, correct?

18                  A        I mentioned it, that the head pointer was  
19                  something I couldn't use for too long because it gave me  
20                  head pain -- rather, neck pain.

21                  Q        Do you recall when that was, from the best of  
22                  your estimate?

23                  A        (No audible response.)

24                  Q        And to jump in there, you treated with him  
25                  March 1 through May 28. So we're only talking about a

1 three-month time period.

2 Do you recall when, for the best of your  
3 estimate, the first time you reported neck pain?

4 A I only mentioned it once. I don't know  
5 exactly in which of the meetings it was.

6 MR. GOINES: Okay. All that will eventually  
7 get to the med-legal, so I'm not going to enter every  
8 exhibit. I will just enter the initial one on March 1  
9 as well as the May 28th.

10 Q My last question is, I know your attorney was  
11 asking some questions about some modifications for  
12 computer use. Those modifications that you were making,  
13 that was while you were still working with Biotelemetry,  
14 correct?

15 A Which modifications?

16 Q So, for example, the head pointer, did you buy  
17 that when you were working or was this afterward?

18 A To the best of my recollection, that was  
19 afterwards.

20 Q After February 15, 2019?

21 A Yes, the head pointer. But the Dragon  
22 speaking software, I already had that, as well as the  
23 pedals.

24 Q And that was what Dr. O. Lang was recommending  
25 you do, correct, the Dragon and the pedal to help

1           alleviate use of the arms?

2           A       He mentioned the Dragon. I -- yeah, and I  
3           mentioned what I had already been using, which was the  
4           pedal and the left mouse. But both of my hands were in  
5           pain, so I needed to find something to substitute for my  
6           hands. And so I got the head pointer.

7           Q       Understood.

8                   And my last question is, Do you recall the  
9           May 28, 2019 permanent and stationary report where  
10           Dr. O. Lang gave you permanent work restrictions? Does  
11           that sound familiar?

12           A       Yes, I recall that.

13           Q       Do you recall what those work restrictions  
14           were?

15           A       You mean what he wrote on the --

16           Q       Correct.

17           A       He said no computer use, I believe.

18           Q       No use of the computer; that's correct. And  
19           so you were aware, when he gave you that report, that  
20           those were his recommendations for you moving forward,  
21           correct?

22           A       Yes.

23           Q       Understood.

24                   MR. GOINES: Okay. Counsel?

25                   MR. KWELLER: I don't have any further

1           questions.

2           MR. GOINES: Terrific. Thank you.

3           And, actually, let me just put this on the  
4           record here, that I did get a response from Mr. Castro,  
5           the adjustor. Here is the authorization -- and I will  
6           forward it to you, Zach -- dated, interestingly,  
7           October 13th. Maybe he's prospectively -- but  
8           regardless. Evaluation and treatment with Dr. Jamasbi  
9           for Mr. Shockley. I will forward this to you, Zach.

10           MR. KWELLER: Perfect.

11           MR. GOINES: So just so you know that while  
12           we're on the record too, you have this authorization  
13           now. Thank you, Mr. Shockley.

14           THE WITNESS: That's it?

15           MR. GOINES: That is it.

16           MR. KWELLER: That's it.

17           THE WITNESS: Okay. Thank you.

18           (Exhibits 1 and 2 were marked for  
19           identification.)

20  
21           (TIME NOTED: 11:54 a.m.)

22

23

24

25

1                   I, the undersigned, a Certified Shorthand  
2                   Reporter of the State of California, do hereby certify:

3                   That the foregoing proceedings were taken  
4                   before me at the time and place herein set forth; that  
5                   any witnesses in the foregoing proceedings, prior to  
6                   testifying, were administered an oath; that a record of  
7                   the proceedings was made by me using machine shorthand  
8                   which was thereafter transcribed under my direction;  
9                   that the foregoing transcript is a true record of the  
10                  testimony given.

11                  Further, that if the foregoing pertains to the  
12                  original transcript of a deposition in a Federal Case,  
13                  before completion of the proceedings, review of the  
14                  transcript [ ] was [ ] was not requested.

15                  I further certify I am neither financially  
16                  interested in the action nor a relative or employee of  
17                  any attorney or party to this action.

18                  IN WITNESS WHEREOF, I have this date subscribe  
19                  my name.

20  
21                  Dated: October 23, 2019

22  
23                  

24                  CLAUDIA A. BETTUCCHI

25                  CSR NO: 12214

1 | Zachary Kweller, Esq.

2 zachary.kweller@farberandco.com

3 | October 23, 2019

4 RE: Shockley v. Biotelemetry, Inc. Dba Cardionet, Et Al

5 10/10/2019, Jonathan Shockley (#3503088)

6 The above-referenced transcript is available for  
7 review.

8           Within the applicable timeframe, the witness should  
9        read the testimony to verify its accuracy. If there are  
10       any changes, the witness should note those with the  
11       reason, on the attached Errata Sheet.

12                   The witness should sign the Acknowledgment of  
13                   Deponent and Errata and return to the deposing attorney.  
14                   Copies should be sent to all counsel, and to Veritext at  
15                   erratas-cs@veritext.com

17       Return completed errata within 30 days from  
18 receipt of testimony.

19 If the witness fails to do so within the time  
20 allotted, the transcript may be used as if signed.

22 Yours,

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2 Jonathan Shockley (#3503088)

3 E R R A T A S H E E T

4 PAGE \_\_\_\_\_ LINE \_\_\_\_\_ CHANGE \_\_\_\_\_

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21 REASON \_\_\_\_\_

22 \_\_\_\_\_

23 \_\_\_\_\_

24 Jonathan Shockley Date

25 \_\_\_\_\_

1 Shockley, Jonathan v. Biotelemetry, Inc. Dba Cardionet, Et Al  
2 Jonathan Shockley (#3503088)

3 ACKNOWLEDGEMENT OF DEPONENT

4 I, Jonathan Shockley, do hereby declare that I  
5 have read the foregoing transcript, I have made any  
6 corrections, additions, or changes I deemed necessary as  
7 noted above to be appended hereto, and that the same is  
8 a true, correct and complete transcript of the testimony  
9 given by me.

10

11

12

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Jonathan Shockley

Date

13

\*If notary is required

14

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15

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California Code of Civil Procedure

Article 5. Transcript or Recording

Section 2025.520

(a) If the deposition testimony is stenographically recorded, the deposition officer shall send written notice to the deponent and to all parties attending the deposition when the original transcript of the testimony for each session of the deposition is available for reading, correcting, and signing, unless the deponent and the attending parties agree on the record that the reading, correcting, and signing of the transcript of the testimony will be waived or that the reading, correcting, and signing of a transcript of the testimony will take place after the entire deposition has been concluded or at some other specific time.

(b) For 30 days following each notice under subdivision (a), unless the attending parties and the deponent agree on the record or otherwise in writing to a longer or shorter time period, the deponent may change the form or the substance of the answer to a question, and may either approve the transcript of the deposition by signing it, or

refuse to approve the transcript by not signing it.

(c) Alternatively, within this same period, the deponent may change the form or the substance of the answer to any question and may approve or refuse to approve the transcript by means of a letter to the deposition officer signed by the deponent which is mailed by certified or registered mail with return receipt requested. A copy of that letter shall be sent by first-class mail to all parties attending the deposition.

(d) For good cause shown, the court may shorten the 30-day period for making changes, approving, or refusing to approve the transcript.

(e) The deposition officer shall indicate on the original of the transcript, if the deponent has not already done so at the office of the deposition officer, any action taken by the deponent and indicate on the original of the transcript, the deponent's approval of, or failure or refusal to approve, the transcript. The deposition officer shall also notify in writing the parties attending the deposition of any changes which the deponent timely made in person.

(f) If the deponent fails or refuses to approve the transcript within the allotted period, the

deposition shall be given the same effect as though it had been approved, subject to any changes timely made by the deponent.

(g) Notwithstanding subdivision (f), on a reasonable motion to suppress the deposition, accompanied by a meet and confer declaration under Section 2016.040, the court may determine that the reasons given for the failure or refusal to approve the transcript require rejection of the deposition in whole or in part.

(h) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to suppress a deposition under this section, unless the court finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

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VERITEXT LEGAL SOLUTIONS  
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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